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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/800,623

03/16/2004

Chuang Chun Chiueh

CHIU3036/EM

9675

23364 7590 07/27/2007  
BACON & THOMAS, PLLC  
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FOURTH FLOOR  
ALEXANDRIA, VA 22314

EXAMINER

WARE, DEBORAH K

ART UNIT

PAPER NUMBER

1651

MAIL DATE

DELIVERY MODE

07/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/800,623

Applicant(s)

CHIUEH, CHUANG CHUN

Examiner

Deborah K. Ware

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

Claims 1, 3-5 and 11 are pending.

***Response to Amendment***

The amendment filed April 20, 2007, has been received and entered.

***Drawings***

The drawings filed March 16, 2004, have been approved by the Examiner.

***Foreign Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson (US Pat No. 4267038), cited on enclosed PTO-892 Form.

The claims are drawn to a method for culturing blue-green algae comprising, obtaining algae species, inoculating a culture medium, carrying out mass culture and

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the culture medium contains high-nitrogen organic matter substance, which is fermented and aerated to give the culture medium a pH of 8 or greater. The substance can be a high protein organic matter. The medium is not added with inorganic salts or carbonate compounds but edible microorganisms can be further added to the culture medium. Further a blue green algae is claimed.

Thompson teaches a method for culturing blue-green algae comprising, obtaining algae species (note column 20, lines 30-35), inoculating a culture medium, carrying out mass culture and the culture medium contains high-nitrogen organic matter substance, which is fermented and aerated to give the culture medium a pH of 8 or greater (column column 29, line 51). The substance can be a high protein organic matter. The medium is not added with inorganic salts or carbonate compounds but edible microorganisms can be further added to the culture medium (column 3, lines 10-15). Further a blue green algae is claimed. Also note column 1, lines 55-65 and column 29, lines 35-55.

The claims are identical to the cited disclosure and are, therefore, considered to be anticipated by the teachings therein. A substance which can be a high protein organic matter is inherent to the teachings of protein conversion at column 1, lines 39 and 57 because the disclosure of processing food waste streams as a culture medium source for algae production by the reference, will inherently contain high protein organic matter for algae production. Also the algae are edible and can be further added to the cultured medium during processing as can bacteria which are also edible microorganisms. Blue green algae strains and species there are clearly disclosed by the reference.

***Response to Arguments***

Applicant's arguments filed April 20, 2007, have been fully considered but they are not persuasive. Applicants' regarding their right to file a divisional application at a later time is noted. The argument that the purpose of the disclosed invention is different from Applicants' claimed method is noted. However, the disclosed method includes culturing algae, thus, each of the steps for culturing algae are disclosed as instantly claimed herein. The argument that the cultivation and pH conditions are different is noted, however, Thompson teaches a method for culturing blue-green algae comprising, obtaining algae species (note column 20, lines 30-35), inoculating a culture medium, carrying out mass culture and the culture medium contains high-nitrogen organic matter substance, which is fermented and aerated to give the culture medium a pH of 8 or greater (column column 29, line 51). The substance can be a high protein organic matter. The medium is not added with inorganic salts or carbonate compounds but edible microorganisms can be further added to the culture medium (column 3, lines 10-15). Therefore, the claims remain prima facie obvious.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

All claims fail to be patentably distinguishable over the state of the art discussed above and cited on the previously enclosed PTO-892 and/or PTO-1449. Therefore, the claims are properly rejected.


No claims are allowed.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is 571-272-0924. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Deborah K. Ware  
July 21, 2007

  
DAVID M. NAFT  
PRIMARY EXAMINER  
ART UNIT 128/657

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